

Notice of Allowability

Application No.

10/764,006

Examiner

Vivian Chen

Applicant(s)

WOOD ET AL.

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephone interview of 3/7/2005.
2. ☒ The allowed claim(s) is/are 25-50 and 53-56.
3. ☒ The drawings filed on 24 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4-2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20050307.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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EXAMINER'S REASONS FOR ALLOWANCE

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 25-56, drawn to a method of making a coated chip, classified in class 427, subclass 212+.
 - II. Claims 57-69, drawn to a method of making a chipped blend, classified in class 264, subclass 5+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation -- Invention III coats a preformed particle while Invention IV forms particles from a blended composition.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. DiPietro on 2/28/2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 25-56. Affirmation of

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this election must be made by applicant in replying to this Office action. Claims 57-69 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Reasons for Examiner's Amendment:

Since this application is in condition for allowance except for the presence of the claims drawn to nonelected inventions, claims 57-69 directed to inventions non-elected without traverse have been cancelled. (see MPEP 821.02)

Claims 34, 43, 55 has been amended to correct obvious typographical errors.

Claims 51-52 have been cancelled because they are identical to claims 47-48 (after incorporation of limitations of claims 2-3).

The Abstract has been amended to more clearly point out the claimed invention.

The specification has been amended to reflect the continuity information for the present application.

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3. The application has been amended as follows:

Claims 57-69 have been cancelled.

In claim 34,

line 2, between "O" and "Acetyl", a hyphen has been inserted.

In claim 43,

line 2, between "O" and "Acetyl", a hyphen has been inserted.

Claims 51-52 have been cancelled.

In claim 55,

line 2, between "O" and "Acetyl", a hyphen has been inserted.

In the Abstract,

line 4, before "material", the following has been inserted:

-- substituted cyclodextrin --.

In the specification,

page 1, before line 1, the following has been inserted:

-- This Application is a divisional of Application No. 10/163,817, filed June 5, 2002, now U.S. Patent No. 6,709,746. --

4. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to disclose or suggest the recited methods of: (1) making a polyester article from polyester chips or pellets coated with the specified substituted cyclodextrin material in the specified amount (claim 25); (2) method of making cyclodextrin-coated polyester chip by means of a purified aqueous solution containing cyclodextrin followed by drying (claim 36); or (3) making a polyester article from cyclodextrin-coated polyester chips which have been coated by means of a purified aqueous solution containing cyclodextrin followed by drying (claim 45). Specifically, HIRSENKORN (US 5,633,368) fails to disclose the recited cyclodextrin with polyester resin; the WOOD ET AL references fail to disclose the recited degree of substitution; the GOSE ET AL and HYCHE ET AL references fail to disclose the recited cyclodextrin compounds and/or the recited purification steps.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 7, 2005



Vivian Chen
Primary Examiner
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